

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LORI ANN ACQUISTO,

Plaintiff,

v.

**ORDER**  
11-CV-803-A

MANITOWOC FSG OPERATIONS, LLC,  
f/k/a MANITOWOC FSG OPERATIONS, INC.,  
and MANITOWOC ICE, INC.,

Defendant.

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This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1). On July 23, 2012, plaintiff Lori Ann Acquisto moved for sanctions pursuant to Fed. R. Civ. P. 11(c) for an allegedly frivolous motion for summary judgment filed on behalf of a prior defendant. Plaintiff Acquisto also filed on July 23, 2012, a motion seeking an order requiring the defendant to show cause, pursuant to § 2.3(B) of this Court's ADR Plan for pre-trial mediation, why the defendant should not be sanctioned for failure to participate in the ADR process in good faith.

On August 1, 2012, Magistrate Judge McCarthy filed a Report and Recommendation recommending that both of plaintiff Acquisto's motions be denied. Plaintiff filed objections to the Report and Recommendation on August

16, 2012. Defendant filed a response thereto and plaintiff filed a reply to the response.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Fed. R. Civ. P. 72(b); see *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). The Court reviews unobjected-to findings for clear error. *Charvenko v. Barbera*, 2011 WL 1659882 at \*1 (W.D.N.Y. May 3, 2011).

Upon careful review of the Report and Recommendation, for the reasons stated by Magistrate Judge McCarthy, plaintiff's motions for sanctions [Dkt. Nos. 24, 25] are denied.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: October 3, 2012